

Agenda

Item #10



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commission Members

From: Jonathan Wayne, Executive Director

Date: November 17, 2008

Re: Policy Issue: Candidates' Appearance in Third-Party Television Advertising

In September, the Maine Republican Party requested that you consider a television advertisement paid for by VoteVets.org concerning U.S. Senator Susan Collins' record on the war in Iraq. The Party requested that you consider whether the advertisement constituted a contribution to Maine House candidate Alexander Cornell du Houx, who appeared in the ad.

At the October 17, 2008 meeting, the party withdrew its request and asked the Commission to consider the broader policy issue of a candidate receiving free exposure to voters by appearing in advertising paid for by a third-party. The party expressed the concern that this tactic could be used to circumvent Maine campaign finance laws by future candidates.

The Commission staff appreciates the concern of the Maine Republican Party, but we are unaware of similar examples of Maine legislative candidates gaining free publicity through appearing in broadcast advertisements relating to federal election campaigns, legislation, or ballot questions. At your October 27, 2008 meeting, you considered commercial advertisements depicting House candidates William Dow and Les Fossel, which may be viewed as related to the issue raised by the Maine Republican Party.

At the October 17 meeting, you applied the definition of a campaign 'contribution' (attached), which drew attention to the purpose of Votevets.org in including Mr. Cornell du Houx in the advertisement. Based on the potential problem that is presented at this time, the Commission staff is cautiously hopeful that the definition of contribution will be sufficient to address similar issues if they arise in the future. For now, we do not have any statute, rule, or policy change to suggest.

We are open to hearing other points of view from advocates, the political parties or caucuses, and to provide you with any assistance that you would find helpful regarding this issue.



Alex Corneliou-Houx

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21-A M.R.S.A. § 1012(2). DEFINITION OF CONTRIBUTION

Contribution. The term "contribution:"

A. Includes:

- (1) A gift, subscription, loan, advance or deposit of money or anything of value **made for the purpose of influencing the nomination or election of any person to state, county or municipal office** or for the purpose of liquidating any campaign deficit of a candidate, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;
- (2) A contract, promise or agreement, express or implied, whether or not legally enforceable, to make a contribution for such purposes;
- (3) Funds received by a candidate or a political committee that are transferred to the candidate or committee from another political committee or other source; and
- (4) The payment, by any person other than a candidate or a political committee, of compensation for the personal services of other persons that are provided to the candidate or political committee without charge for any such purpose; and [1995, c. 483, §3 (AMD) .]

B. Does not include:

- (1) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;
- (2) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the individual on behalf of any candidate does not exceed \$100 with respect to any election;
- (3) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if the charge to the candidate is at least equal to the cost of the food or beverages to the vendor and if the cumulative value of the food or beverages does not exceed \$100 with respect to any election;
- (4) Any unreimbursed travel expenses incurred and paid for by an individual who volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election;
- (4-A) Any unreimbursed campaign-related travel expenses incurred and paid for by the candidate or the candidate's spouse or domestic partner;
- (5) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution of a party candidate listing;
- (6) Documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this Title, lists of registered voters and voter identification information, created, obtained or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party;

- (7) Compensation paid by a state party committee to its employees for the following purposes:
- (a) Providing no more than a total of 40 hours of assistance from its employees to a candidate in any election;
 - (b) Recruiting and overseeing volunteers for campaign activities involving 3 or more candidates; or
 - (c) Coordinating campaign events involving 3 or more candidates;
- (8) Campaign training sessions provided to 3 or more candidates;
- (8-A) Costs paid for by a party committee in connection with a campaign event at which 3 or more candidates are present;
- (8-B) Wood or other materials used for political signs that are found or contributed if not originally obtained by the candidate or contributor for campaign purposes;
- (8-C) The use or distribution of any communication, as described in section 1014, obtained by the candidate for a previous election and fully paid for during that election;
- (9) The use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the provider; or
- (10) Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate.